

1951

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CONCORD, N.H.

Mr. Russell B. Tobey
Director of Recreation
Division of Forestry & Recreation
State House Annex

Dear Sir:

In a letter of November 16, 1951, you have made two inquiries concerning the park areas at the approaches to the Sullivan and Scammell bridges. Your questions and our views thereon follow.

- a. Whether additional lands adjacent to these areas may be acquired through the proceeds of the bond issue extended by the 1951 Legislature.

It is assumed that reference here is made to Laws of 1951, c. 57 which extended an appropriation — founded upon a bond issue — made at the 1945 Session (Laws 1945 c. 173) and first extended by the Session of 1947 (Laws 1947, c. 226). We must answer the question in the negative; that the acquisition of additional adjacent lands cannot be financed by the bond issue described.

The bond issue in question was, as noted above, originally authorized by Laws 1945, c. 173. The object of the issue is set forth in that statute: "For the purpose of continuing the improvement of the park and recreational areas adjacent to the General John Sullivan Memorial and Scammell bridges authorized by chapter 124 of the Laws of 1937". In the acts extending the bond issue, no broader purpose is stated; in each case reference in the extending enactment is made to the bonds authorized in 1945 "for the improvement of the park and recreational areas adjacent to the John Sullivan Memorial and the Alexander Scammell bridges". We need only to turn to Laws 1937, c. 124 to learn just what the "park and recreational areas" to be improved by the bond issue are. They are composed of the real estate adjacent to the bridges "as shown on plans filed in the office of the secretary of state entitled (1) Plan showing park areas at approaches to General John Sullivan bridge, and (2) Plan showing park area at westerly end of Alexander Scammell bridge, said land being situated in the city of Dover and the towns of Newington, Madbury and Durham". Specific areas are thus indicated; the proceeds of the bond are to be

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spent on their improvement and there is no authority for the acquisition of other lands by means of such proceeds.

b. Whether income derived from the operations in the areas in question may go into the accounts of your department in the usual manner, or whether such income must be carried separately through a provision for paying on the bonds under the law setting up the bond issue.

In respect to income derived from the operation of the area and repayment of the bonds, the basic statute (Laws 1945, c. 173) provides as follows: "Any income accruing from the operation of said areas shall be used for the payment of the principal and interest upon the bonds herein-after authorized". This language clearly indicates that costs of operation and administration of the areas are a first charge upon income derived; it is only the net income -- which, I presume, can be ascertained only at the close of the fiscal year -- that must be used for the payment of the interest and principal on the bonds. In this connection, it is suggested that you examine any instruments or agreements made in connection with such of the bonds as may already have been issued to determine if they contain restrictive provisions.

In connection with your second inquiry, it is felt that the answer set forth isn't adequate; I don't feel entirely certain of what you have in mind. If you feel it necessary, I should be glad to confer with you at your convenience.

Very truly yours,

Warren E. Waters
Assistant Attorney General

WEW:RM